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Langtree, 64 Cal. 256, 30 Pac. 813; *People v. Quanstrom*, 93 Mich. 254, 53 N. W. 165, 17 L. R. A. 723; *Overton v. State*, 43 Tex. 616; *Compton v. State*, 13 Tex. App. 274; 44 Am. Rep. 703; *State v. Armstrong*, 4 Minn. 335 (Gil. 251); *State v. McDavid*, 15 La. An. 403; *Thomas v. State*, 14 Tex. App. 70; *McLean v. State*, 32 Tex. Crim. 521; *People v. Westbrook*, 94 Mich. 629; 30 AM. & ENG. ENCY. OF LAW (2nd Ed.) p. 956.

EXECUTIONS—WRONGFUL LEVY.—The plaintiff brought this action to recover \$450 in money levied upon by the defendant constable under execution. From the facts of the case it appears that the plaintiff was counting a package of bills lying on a table by holding one hand on the top of the bills and lifting the corners with the other. The officer reached from behind and snatched the bills away claiming a levy under execution. *Held*, that the levy was not a trespass on the person of the plaintiff and was good. *Richards v. Heger et al.* (1907), — Mo. App. —, 99 S W. Rep. 802.

The English decisions seem to be well established contrary to the principal case and hold that articles in the manual possession of a person such as wearing apparel or an ax in his hand are exempt from levy. Coke Lit. 47; *Read v. Burley*, Cro. Eliz. 549; *id.* 596. *Simpson v. Hartopp*, Willes 512. *Gorton v. Falkner*, 4 T. R. 568; *Sunbolf v. Alford*, 3 Mee & W. 253; *Storey v. Robinson*, 6 T. R. 139. *Field v. Adams*, 4 Per. & Dav. 504. In America, however, there seems to be some wavering as to the application of the common law principles. In *Green v. Palmer*, 15 Cal. 411, 76 Am. Dec. 492, a levy was made on a bag of gold held in the hand of the execution debtor. The court held the levy good on the ground that it was not so connected with the person that its seizure was a violation of the right of personal security and it did not necessarily necessitate a breach of the peace. Along the same line is the case of *State v. Dillard*, 25 N. C. 102, 38 Am. Dec. 708, in which it was held that a horse upon which a man was riding could be levied upon. In contravention to this authority, however, and contrary to the principal case is the case of *Mack v. Parks*, 8 Gray (Mass.) 517, 69 Am. Dec. 267. This case holds that such a levy from the person is wrongful, for, if things can be taken from a person's hand, they may be picked from his pocket or ornaments snatched from his clothes. Compare FREEMAN, EXECUTIONS, Vol. II, § 255.

GUARDIAN AND WARD—INVESTMENT OF WARD'S MONEY GROUNDS FOR REMOVAL.—Decedent died leaving a son and daughter as his only heirs. The son being of unsound mind, upon application to the county court, the daughter was appointed guardian of his person and estate. She was later removed and defendant appointed to succeed her. In an action to have the guardian removed, *held*, that the defendant's failure to properly invest the money of his ward and to make his annual accounting was a sufficient allegation of misconduct to warrant his removal. *McIntire v. Bailey* (1907), Ia. —, 110 N. W. Rep. 588.

The office of guardian being one of trust and obligation he is bound to act for the interest of the ward and not for his own interest. *Water Valley*

Mfg. Co. v. Seaman, 53 Miss. 655. Although the incidents governing the relation of guardian and ward are covered by express statutes in a majority of the states, the court in the principal case takes occasion to announce what the duties and liabilities are in the absence of any statute on the subject. The general rule as deduced from the cases is that the guardian must keep the ward's money and property separate from his own and make investments not in his own name but in the name of the ward. The fact that the guardian acts in good faith in making an investment is generally held to be no defense to the ward's action. *May v. Duke*, 61 Ala. 53; *Jackson v. Sears*, 10 (Johns) N. Y. 435; *Smith v. Dibrell*, 31 Texas, 239. Where the transactions of the guardian prove beneficial, the court usually adopts them and where they prove detrimental the courts without exception hold the guardian personally liable. In defense of the action it was urged that the guardian's bond was sufficient to cover any discrepancies that might arise by reason of the guardian's failure to keep the ward's money separate from his own. On the principle that the guardian is an officer of the court, the court deemed it its duty to call its officers to account when it has knowledge of maladministration, and in this way protect the sureties on the bond. It was accordingly held that the fact that the guardian's miscarriages were covered by a bond was no defense to an action for his removal where the evidence showed that he had been guilty of gross misconduct. *In re Mansfield Estate*, 206 Pa. St. 64; *Crawford v. Crawford*, 91 Iowa 744.

HIGHWAYS—LATERAL SUPPORT.—A macadam road was built by the plaintiffs in accordance with the grants, covenants and conditions of a deed from the defendant, with a parapet and retaining wall at one side. In an action for damages, caused by a subsidence of the road due to the excavating, blasting and removing of rock and soil from adjoining land by the defendant's lessee, held, that the adjoining land was burdened with the lateral support of the road, and the lessor is liable, where a nuisance is the necessarily contemplated or probable result of the use of the premises for the purposes for which they are leased. *Board of Chosen Freeholders of Hudson County v. Woodcliffe Land Imp. Co.* (1907), — N. J. —, 65 Atl. Rep. 844.

Whether or not the action is maintainable depends upon the right of the plaintiffs to lateral support, and the liability of the defendant for the acts of its lessee. Ordinarily the duty of lateral support of a neighbor's land is limited to the support of the land in its natural condition. It is settled by the general concurrence of the common law courts that where the owner of a lot builds upon his boundary line and the building is thrown down by reason of excavations made upon the adjoining lot, no recovery can be had for the injury to the building, in the absence of improper motives and carelessness in the execution of the work. *McGuire v. Grant*, 25 N. J. Law 356, 16 Am. Dec. 49; *Gilmore v. Driscoll*, 122 Mass. 199; *Foley v. Wyeth*, 2 Allen, 131; *Panton v. Holland*, 17 Johns. 92; *Lasala v. Holbrook*, 4 Paige 169; *Richardson v. Vt. Cent. R. R. Co.*, 25 Vt. 465. The natural right of support from adjacent land does not carry with it the right to place an additional weight on the land and claim a right of support for the land with